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Ms. Marlene H. Dortch
Secretary,
Federal Communications Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

Re: Ex Parte Presentation, CC Docket No. 96-45

Pursuant to Section 1.1206 of the Commission's rules, Valor Telecommunications of Texas, L.P. ("Valor") seeks to update the record with respect to its April 11, 2003, *Request for Waiver of Section 54.305*, and its interrelated November 6, 2003 *ex parte* presentation in the above-referenced docket.

The question has arisen whether relief is more appropriate for a single year or a number of years. Multiple year relief is more consistent with the manner in which universal service money is distributed, provided that the financial figures of the company justify distribution in a particular year.

The reason that multiple year relief is appropriate is demonstrated by the fact that, year after year, Valor's loop costs for its Texas study area exceed the national average. The only reason that Valor cannot get its share of universal service distribution under the rules is solely because of the parent trap rule, Section 54.305 of the Commission's rules, which limits support to the amount received by GTE for these exchanges pre-sale. If the *Rural Task Force Order* had not been adopted, under existing Commission precedent, Valor would have been entitled to a waiver of the parent trap rule because three years had passed since the purchase of its study areas and the impact on the universal service fund was less than one percent. See generally *Petitions for Waiver and Reconsideration Concerning Section 36.611, 36.612, 61.41(c)(2), 69.605(c), 69.3(e)(11) and the Definition of "Study Area" Contained in Part 36 Appendix-Glossary of the Commission's Rules Filed by Copper Valley Telephone, Inc., et al.*, Memorandum Opinion and Order, DA 99-1845 (Com. Car. Bur. 1999); *Accent Communications, Inc. et al., Petitions for Waiver Concerning the Definition of "Study Area" Contained in Part 36 Appendix-Glossary of the Commission's Rules*, Order, 15 FCC Rcd 23491 (Com. Car. Bur. 2000). Under such a waiver, Valor would be entitled to universal service support each year based on Valor's actual loop costs.

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However, after the Texas property was purchased in 2000, the FCC in the summer of 2001 adopted safety valve relief, a modification to the parent trap rule. Safety valve relief entitles a company to receive, in every subsequent year for which it is qualified, 50 percent of its increased investment over its index year, *i.e.*, the first full year of operation. However, safety valve support is useless to Valor because of the fateful timing of its adoption. Since the rule was not adopted until well into Valor's first full year of operation, Valor could not have planned its initial investments to take advantage of the new rule. Of course, these investments were not simply a one-year event. Capital expenditures were incurred during subsequent years as well, beginning a whole series of substantial investments in consecutive years to improve service in Texas at the insistence of regulators. What is more, Valor suffered several serious natural disasters that substantially and arbitrarily increased costs during the index year. But for these problems, Valor would have had a much lower index year, and therefore would have been entitled to year after year support, to the extent allowed by the safety valve rule based on current investment levels.

What is clear is that under neither of these two scenarios – the parent trap rule or safety valve relief - would a single year of relief be appropriate. At a minimum, several years of relief are justified given the extraordinary high loop costs incurred by Valor every year and the multiple years of unique and serious financial commitments incurred by the company. Under this waiver request, Valor believes that relief could be limited to a minimum period of years, such as five years, because of these unique circumstances.

If you have any questions, please let us know.

Respectfully submitted,

/s/ Gregory J. Vogt

Gregory J. Vogt

Counsel for Valor Telecommunications of Texas, L.P.

cc: William Maher
Sharon Webber